

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID E. DOHERTY, SR.,	:	4:CV-05-1249
	:	
Plaintiff,	:	(Judge McClure)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
JO ANNE B. BARNHART,	:	
Commissioner of Social Security,	:	
	:	
Defendant.	:	

**O R D E R**

March 3, 2006

The plaintiff has brought this action under the authority of 42 U.S.C. § 405(g) to obtain judicial review of the decision of the Commissioner of Social Security denying the plaintiff's claims for disability insurance benefits and supplemental security income.

The case was initially referred to United States Magistrate Judge J. Andrew Smyser.

Magistrate Judge Smyser filed an eleven-page report and recommendation on February 9, 2006. He concluded with the recommendation that the case should be remanded to the Commissioner for reconsideration of the testimony of plaintiff's girlfriend Denise Smeltzer, the credibility of the plaintiff as to his symptoms and limitations, and the medical evidence.

On February 23, 2006, the Commissioner waived the opportunity to object to the report and recommendation.

The court agrees with the analysis and recommendation of the magistrate judge, and will order a remand.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The report and recommendation of United States Magistrate Judge J. Andrew Smyser (Rec. Doc. No. 11-1) is approved and adopted in full for the reasons set forth therein.
2. The case is remanded to the Commissioner of Social Security for reconsideration of the testimony of plaintiff's girlfriend Denise Smeltzer, the credibility of the plaintiff as to his symptoms and limitations, and the medical evidence.
3. The clerk is directed to close the case file.

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James F. McClure, Jr.  
United States District Judge